IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2520 OF 2006.

Samajwadi Party & Others ..Petitioners

versus

The State of Maharashtra
& Others ..Respondents

Shri.S.G.Kudley i/b. S.K.Dubey for the Petitioner

Adv. General Shri Ravi Kadam for the State

Coram : S.B.Mhase &
S.R.Sathe, JJ.
Dated : 20th November, 2006

P.C.

1. Order under Section 144 is being challenged by this petition. We find that under sub Section (5) the Magistrate, namely the Commissioner of Police, who has passed the order is also having powers to rescind and alter the order. Without following the said remedy this petition appears to have been filed.

2. Mr.Kudle is fair enough to say that he will appear before the D.M. namely the Commissioner of Police. However, he submitted that in view of this short span left out for deciding the matter, appropriate direction be issued to the Commissioner to dispose of the application filed under sub

sec.(5) immediately after hearing the applicants. He also submitted that this petition shall be directed to be treated as petition by the Commissioner and he shall hear and pass order on that.

3. The learned Advocate General fairly conceded that the respondents have no objection for this course, therefore it is directed that Mr. Kudle shall submit a copy of this petition before the Commissioner today itself and the Commissioner shall hear the parties and dispose of the said application latest by 10.00 p.m. today i.e. on 20.11.2006. The Commissioner shall decide the matter on merits and in case of adverse order liberty to approach the appropriate forum under law. With these observations petition is disposed of.

4. Mr. Borulkar shall communicate the order to the Commissioner of Mumbai and the Commissioner shall communicate his order to the petitioner immediately.

(S.R.Sathe, J.) **(S.B.Mhase, J.)**